IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.M. No.15882-M of 2007

Date of Decision: 19.3.2007

Gurmej Singh

....Petitioner.

Versus

State of Punjab and others.

...Respondents.

Present:- Mr.S.P.S.Sidhu,Advocate
for the petitioner.

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S.S.SARON, J.(ORAL)

This criminal miscellaneous petition has been filed under Section 482 of the Code of Criminal Procedure, seeking direction to the respondents to fairly investigate the cross version case registered on the statement of Gurmej Singh (petitioner). The investigation in the cross version case is sought in case FIR No.236 dated 16.12.2006 registered at P.S. Guru Har Sahai, for the offence under Section 307,323,324,148,149 of the Indian Penal Code and Section 25 of the Arms Act, 1959.

Heard learned counsel for the petitioner.

It is submitted that the police is not carrying out a fair investigation in the cross version which has been recorded on the statement of the petitioner Gurmej Singh, therefore, a direction is liable to be issued to the respondents to investigate fairly.

After giving my thoughtful consideration to the matter it would be appropriate if the petitioner in the first instance approaches the Illaqa

Magistrate for inquiring into the matter. In State of Haryana Vs. Bhajan Lal, AIR 1992 S.C. 604, it was held that the investigation of a cognizable offence is the field exclusively reserved for the police officers whose powers in that field are unfettered. However, the said powers to investigate into the cognizable offences is to be legitimately exercised in strict compliance with the provisions falling under Chapter XII Cr.P.C. The following observations of the Hon'ble Supreme Court are apposite.

> " Indeed, a noticeable feature of the scheme under Chapter XIV of the Code is that a Magistrate is kept in the picture at all stages of the police investigation but he is not authorised to interfere with the actual investigation or to direct the police how that investigation is to be conducted. But if a police officer transgresses the circumscribed limits and improperly and illegally exercised his investigatory powers in breach of any statutory provision causing serious prejudice to the personal liberty and also property of a citizen, then the Court on being approached by the person aggrieved for the redress of any grievance, has to consider the nature and extent of the breach and pass appropriate orders as may be called for without leaving the citizens to the mercy of police echelons since human dignity is a dear value of Constitution. It needs no emphasis that no one can demand absolute immunity even if he is wrong and claim unquestionable right and unlimited powers exercisable up to unfathomable cosmos. Any recognition of such power will be tantamount to recognition of `Divine Power'

which no authority on earth can enjoy."

Keeping in view the above observations, the petitioner has an adequate remedy to approach the learned Illaqa Magistrate in the first instance.

In the circumstances, the present petition is pre-mature and is accordingly disposed of.

(S.S.SARON)
JUDGE

March 19,2007
Reema